

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

JOHN SLAGTER

APPELLANT

VS.

CIVIL ACTION NO.3:05CV560BN

STONECRAFT, LLC.

APPELLEE

OPINION AND ORDER

This cause is before the Court on Appellant's Emergency Motion to Consolidate Cases and Request for Immediate Hearing of Appellant's Motion for Reconsideration of Emergency Motion for Stay of Judgment.

On July 7, 2005, Appellant filed an Emergency Motion for Stay (3:05-MC-25JCS; docket entry no. 1) in the United States District Court for the Southern District of Mississippi. That motion was docketed as 3:05-MC-25JCS and assigned to Magistrate Judge James C. Sumner. Appellant sought a stay of a Final Judgment entered on April 22, 2005, in the United States Bankruptcy Court for the Southern District of Mississippi by Judge David W. Houston III in Adversary Case No. 03-00173WDH.

In an Order dated July 12, 2005, ("July 12 Opinion") and filed with the Clerk of the Court on the same day [3:05-MC-25JCS; docket entry no. 4], Judge Sumner denied Plaintiff's Emergency Motion for Stay. Aggrieved by the holdings in the July 12 Opinion, Plaintiff

filed a Motion for Reconsideration on July 25, 2005, [3:05-MC-25JCS; docket entry no. 5]. Before Appellant's Motion for Reconsideration could be considered, the action in which the Motion was filed, 3:05-MC-25JCS, was consolidated with this action, 3:05-CV-560BN, on October 21, 2005. On October 26, 2005, Appellant filed his Emergency Motion to Consolidate Cases and Request for Immediate Hearing of Appellant's Motion for Reconsideration of Emergency Motion for Stay of Judgment ("October 26 Motion") [3:05-CV-560BN; docket entry no. 5].

In the October 26 Motion, Appellant asked the Court to consolidate case 3:05-MC-25JCS with 3:05-CV-560BN. Because the two actions have already been consolidated, that portion of Appellant's October 26 Motion is now moot. The October 26 Motion also asked the Court to consider the Motion for Reconsideration that was filed on July 25, 2005. Because the Original Motion for Emergency Stay of Judgment was decided by Magistrate Judge Sumner, the Court must construe the Motion for Reconsideration as an appeal of Judge Sumner's July 12, 2005, Order.

Pursuant to Rule 72.1(A)(2) of the Uniform Local Rules of the United States District Courts for the Northern and Southern Districts of Mississippi, the Court must review a magistrate judge's decision under a clearly erroneous or contrary to law

standard.¹ After considering Appellant's Motion, the Court finds that the July 12, 2005, Order of Judge Sumner should not be disturbed. Appellant has not provided this Court with any explanation as to why the July 18, 2005, Order of Judge Nicols is clearly erroneous or contrary to law.

IT IS THEREFORE ORDERED that Appellant's Motion for Reconsideration, construed as an Appeal of Judge Sumner's July 12, 2005, Order, is hereby denied.

IT IS FURTHER ORDERED that the Clerk of the Court term docket entry no. 5 in this action.

SO ORDERED this the 19th day of December, 2005.

s/ William H. Barbour, Jr.
UNITED STATES DISTRICT JUDGE

blj

¹Rule 72.1(A) (2) states, "[n]o ruling of a magistrate judge in any matter which he or she is empowered to hear and determine shall be reversed, vacated, or modified on appeal unless the district court shall determine . . . that the magistrate judge's ruling is clearly erroneous or contrary to law."